

AMENDED IN ASSEMBLY APRIL 9, 2007

AMENDED IN ASSEMBLY MARCH 26, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 714

Introduced by Assembly Members Maze and Bass

February 22, 2007

An act to amend Section ~~9204~~ 361.3 of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 714, as amended, Maze. Adoption: *relatives*: release of information.

Existing law requires that, in any case in which a child is removed from the physical custody of his or her parents pursuant to specified provisions of law, preferential consideration be given to a request by a relative of the child for placement of the child with the relative.

Existing law prohibits the State Department of Social Services and licensed adoption agencies from releasing information that would identify persons who receive, or have received, adoption services, *except as specified*. ~~Existing law creates certain exceptions to this prohibition, including an exception allowing the department and any licensed adoption agency to furnish information relating to an adoption petition or to a child in the custody of the department or any licensed adoption agency to the juvenile court, county welfare department, public welfare agency, private welfare agency licensed by the department, provider of foster care services, potential adoptive parent, or provider of health care, as defined, if it is believed the child's welfare will be promoted thereby.~~

~~This bill would provide that, in addition to the above persons and entities, the department and any licensed adoption agency may furnish information relating to a child who has been previously adopted, who was previously a dependent of the court, and who is in the custody of the department or a licensed adoption agency to a potential foster parent or another potential caretaker if it is believed the child's welfare will be promoted thereby. The bill would provide that, for the purposes of these provisions, a potential caretaker includes a member of the child's birth family, including a member of the birth family who is not related to the child by blood, if specified circumstances exist.~~

This bill would provide that, with respect to a child who was previously adopted, was previously a dependent of the court, and is in the custody of the department or a licensed adoption agency, the department and any licensed adoption agency may search for a relative and furnish information relating to the child to that relative if it is believed the child's welfare will be promoted thereby. The bill would provide that, for the purposes of these provisions, a relative includes a member of the child's birth family and nonrelated extended family members, regardless of whether the parental rights were terminated, provided that specified circumstances exist.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. It is the intent of the Legislature to support*
- 2 *counties in their work to promote finding families for children who*
- 3 *are in the foster care system. In doing this work, counties have*
- 4 *discovered children who were adopted, but their adoptions were*
- 5 *disrupted and the children's custody was returned to the counties.*
- 6 *These children should be afforded the same opportunity to explore*
- 7 *birth family connections and achieve permanency as children who*
- 8 *remain in planned permanency living arrangements.*
- 9 *SEC. 2. Section 361.3 of the Welfare and Institutions Code is*
- 10 *amended to read:*
- 11 361.3. (a) In any case in which a child is removed from the
- 12 physical custody of his or her parents pursuant to Section 361,
- 13 preferential consideration shall be given to a request by a relative
- 14 of the child for placement of the child with the relative. In
- 15 determining whether placement with a relative is appropriate, the

1 county social worker and court shall consider, but shall not be
2 limited to, consideration of all the following factors:

3 (1) The best interest of the child, including special physical,
4 psychological, educational, medical, or emotional needs.

5 (2) The wishes of the parent, the relative, and child, if
6 appropriate.

7 (3) The provisions of Part 6 (commencing with Section 7950)
8 of Division 12 of the Family Code regarding relative placement.

9 (4) Placement of siblings and half-siblings in the same home,
10 if that placement is found to be in the best interest of each of the
11 children as provided in Section 16002.

12 (5) The good moral character of the relative and any other adult
13 living in the home, including whether any individual residing in
14 the home has a prior history of violent criminal acts or has been
15 responsible for acts of child abuse or neglect.

16 (6) The nature and duration of the relationship between the child
17 and the relative, and the relative's desire to care for, and to provide
18 legal permanency for, the child if reunification is unsuccessful.

19 (7) The ability of the relative to do the following:

20 (A) Provide a safe, secure, and stable environment for the child.

21 (B) Exercise proper and effective care and control of the child.

22 (C) Provide a home and the necessities of life for the child.

23 (D) Protect the child from his or her parents.

24 (E) Facilitate court-ordered reunification efforts with the parents.

25 (F) Facilitate visitation with the child's other relatives.

26 (G) Facilitate implementation of all elements of the case plan.

27 (H) Provide legal permanence for the child if reunification fails.

28 However, any finding made with respect to the factor considered
29 pursuant to this subparagraph and pursuant to subparagraph (G)
30 shall not be the sole basis for precluding preferential placement
31 with a relative.

32 (I) Arrange for appropriate and safe child care, as necessary.

33 (8) The safety of the relative's home. For a relative to be
34 considered appropriate to receive placement of a child under this
35 section, the relative's home shall first be approved pursuant to the
36 process and standards described in subdivision (d) of Section 309.

37 In this regard, the Legislature declares that a physical disability,
38 such as blindness or deafness, is no bar to the raising of children,
39 and a county social worker's determination as to the ability of a
40 disabled relative to exercise care and control should center upon

1 whether the relative's disability prevents him or her from exercising
2 care and control. The court shall order the parent to disclose to the
3 county social worker the names, residences, and any other known
4 identifying information of any maternal or paternal relatives of
5 the child. This inquiry shall not be construed, however, to guarantee
6 that the child will be placed with any person so identified. The
7 county social worker shall initially contact the relatives given
8 preferential consideration for placement to determine if they desire
9 the child to be placed with them. Those desiring placement shall
10 be assessed according to the factors enumerated in this subdivision.
11 The county social worker shall document these efforts in the social
12 study prepared pursuant to Section 358.1. The court shall authorize
13 the county social worker, while assessing these relatives for the
14 possibility of placement, to disclose to the relative, as appropriate,
15 the fact that the child is in custody, the alleged reasons for the
16 custody, and the projected likely date for the child's return home
17 or placement for adoption or legal guardianship. However, this
18 investigation shall not be construed as good cause for continuance
19 of the dispositional hearing conducted pursuant to Section 358.

20 (b) In any case in which more than one appropriate relative
21 requests preferential consideration pursuant to this section, each
22 relative shall be considered under the factors enumerated in
23 subdivision (a).

24 (c) For purposes of this section:

25 (1) "Preferential consideration" means that the relative seeking
26 placement shall be the first placement to be considered and
27 investigated.

28 (2) "Relative" means an adult who is related to the child by
29 blood, adoption, or affinity within the fifth degree of kinship,
30 including stepparents, stepsiblings, and all relatives whose status
31 is preceded by the words "great," "great-great" or "grand" or the
32 spouse of any of these persons even if the marriage was terminated
33 by death or dissolution. However, only the following relatives
34 shall be given preferential consideration for the placement of the
35 child: an adult who is a grandparent, aunt, uncle, or sibling.

36 (d) Subsequent to the hearing conducted pursuant to Section
37 358, whenever a new placement of the child must be made,
38 consideration for placement shall again be given as described in
39 this section to relatives who have not been found to be unsuitable
40 and who will fulfill the child's reunification or permanent plan

1 requirements. In addition to the factors described in subdivision
2 (a), the county social worker shall consider whether the relative
3 has established and maintained a relationship with the child.

4 (e) If the court does not place the child with a relative who has
5 been considered for placement pursuant to this section, the court
6 shall state for the record the reasons placement with that relative
7 was denied.

8 (f) (1) *With respect to a child who satisfies the criteria set forth*
9 *in paragraph (2), the department and any licensed adoption agency*
10 *may search for a relative and furnish information relating to the*
11 *child to that relative if it is believed the child's welfare will be*
12 *promoted thereby.*

13 (2) *Paragraph (1) shall apply if all of the following conditions*
14 *are satisfied:*

15 (A) *The child was previously adopted.*

16 (B) *The child was previously a dependent of the court.*

17 (C) *The child is in the custody of the department or a licensed*
18 *adoption agency.*

19 (3) *As used in this subdivision, "relative" includes a member*
20 *of the child's birth family and nonrelated extended family members,*
21 *regardless of whether the parental rights were terminated, provided*
22 *that both of the following are true:*

23 (A) *No appropriate potential caretaker is known to exist from*
24 *the child's adoptive family, including nonrelated extended family*
25 *members of the adoptive family.*

26 (B) *The child was not the subject of a voluntary relinquishment*
27 *by the birth parents pursuant to Section 8700 of the Family Code*
28 *or Section 1255.7 of the Health and Safety Code.*

29 SECTION 1. ~~Section 9201 of the Family Code is amended to~~
30 ~~read:~~

31 ~~9201. (a) Except as otherwise permitted or required by statute,~~
32 ~~neither the department nor a licensed adoption agency shall release~~
33 ~~information that would identify persons who receive, or have~~
34 ~~received, adoption services.~~

35 ~~(b) Employees of the department and licensed adoption agencies~~
36 ~~shall release to the department at Sacramento any requested~~
37 ~~information, including identifying information, for the purposes~~
38 ~~of recordkeeping and monitoring, evaluation, and regulation of~~
39 ~~the provision of adoption services.~~

1 ~~(e) Prior to the placement of a child for adoption, the department~~
2 ~~or licensed adoption agency may, upon the written request of both~~
3 ~~a birth and a prospective adoptive parent, arrange for contact~~
4 ~~between these birth and prospective adoptive parents that may~~
5 ~~include the sharing of identifying information regarding these~~
6 ~~parents.~~

7 ~~(d) The department and any licensed adoption agency may,~~
8 ~~upon written authorization for the release of specified information~~
9 ~~by the subject of that information, share information regarding a~~
10 ~~prospective adoptive parent or birth parent with other social service~~
11 ~~agencies, including the department and other licensed adoption~~
12 ~~agencies, or providers of health care as defined in Section 56.05~~
13 ~~of the Civil Code.~~

14 ~~(e) (1) Notwithstanding any other law, the department and any~~
15 ~~licensed adoption agency may furnish information relating to an~~
16 ~~adoption petition or to a child in the custody of the department or~~
17 ~~any licensed adoption agency to the juvenile court, county welfare~~
18 ~~department, public welfare agency, private welfare agency licensed~~
19 ~~by the department, provider of foster care services, potential~~
20 ~~adoptive parent, or provider of health care as defined in Section~~
21 ~~56.05 of the Civil Code, if it is believed the child's welfare will~~
22 ~~be promoted thereby.~~

23 ~~(2) In addition to the persons and entities authorized to receive~~
24 ~~information pursuant to paragraph (1), the department and any~~
25 ~~licensed adoption agency may furnish information relating to a~~
26 ~~child who has been previously adopted, who was previously a~~
27 ~~dependent of the court, and who is in the custody of the department~~
28 ~~or a licensed adoption agency to a potential foster parent or another~~
29 ~~potential caretaker if it is believed the child's welfare will be~~
30 ~~promoted thereby. For the purposes of this paragraph, a potential~~
31 ~~caretaker includes a member of the child's birth family, including~~
32 ~~a member of the birth family who is not related to the child by~~
33 ~~blood, if both of the following are true:~~

34 ~~(A) No appropriate potential caretaker is known to exist from~~
35 ~~the child's adoptive family, including members of the adoptive~~
36 ~~family who are not related to that family by blood.~~

37 ~~(B) The child was not the subject of a voluntary relinquishment~~
38 ~~pursuant to Section 8700.~~

39 ~~(f) The department and any licensed adoption agency may make~~
40 ~~adoption case records, including identifying information, available~~

- 1 ~~for research purposes, provided that the research will not result in~~
- 2 ~~the disclosure of the identity of the child or the parties to the~~
- 3 ~~adoption to anyone other than the entity conducting the research.~~

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